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DEC 15 2006

OFFICE OF PETITIONS

In re Application of :
Hedrick, et al. : DECISION
Application No.: 10/817,625 :
Filed: April 1, 2004 :
Docket No.: IGT1P006C1R1 :

This decision is in response to the petition under 37 CFR 1.47 filed November 27, 2006. This matter is being properly treated under 37 CFR 1.183 to waive the requirements of 37 CFR 1.175(b). The balance of the required petition fee of \$400.00 has been charged to petitioners' deposit account as authorized.

This petition is not subject to the provisions of 37 CFR 1.47 as once an executed oath or declaration has been filed and been placed in the application for examination, the provisions of 37 CFR 1.47 no longer apply. Rather the remedy for treating an inventor's refusal or unavailability to sign a supplemental declaration is a waiver of 37 CFR 1.175. See MPEP 1412.03. Nonetheless, it is appropriate to apply the principles of 37 CFR 1.47 in evaluating the merits of the instant petition.

The provisions of 37 CFR 1.183 provide that "[i]n an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed."

A grantable petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.175 requires petitioners to demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

Petitioners have failed establish that bona fide effort has been made to procure the signature of the inventor upon the declaration. Instead, petitioners indicate that in response to the inventor's request for copies of application file histories prior to executing the supplemental declaration, petitioners

directed the inventor to the USPTO Pair database. Under the circumstances, it is concluded that petitioners have failed demonstrated that this is an extraordinary situation requiring waiver of the rules.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.183." This is not a final agency decision.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition
Commissioner for Patents
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By facsimile:

(51) 273-8300

By hand delivery:

U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.



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